

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| Serial No.: 09/909,224      | ) |                                       |
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| For: AUDIENCE               | ) |                                       |
| MEASUREMENT SYSTEM FOR      | ) |                                       |
| DIGITAL TELEVISION          | ) |                                       |
|                             | ) | <b>November 17, 2010</b>              |
| Filed: July 19, 2001        | ) |                                       |
|                             | ) | <u><b>/Christopher N. George/</b></u> |
| Group Art Unit: 2424        | ) | Christopher N. George                 |
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**RESUBMITTED BRIEF ON APPEAL**

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This amended brief on appeal is being filed in response to the Notice of Non-Compliant Appeal Brief mailed on October 26, 2010. In the Notice, the Office noted that the brief did not satisfy the requirements of 37 C.F.R. § 41.37(c)(1)(v) because the summary of the claimed subject matter cited the paragraphs of the published application rather than the page and line numbers of the application as originally filed. The summary of the brief also used reference numbers without identifying in which figure the reference number can be found. By way of this response, the applicants resubmit an amended Summary of the Claimed Subject Matter section.

The Notice indicated that another brief need not be submitted, but rather just a paper including the proper heading and corrections. The applicants contacted the paralegal in the Appeals division who issued the Notice to confirm the necessary changes to the summary of

claimed subject matter as well as the propriety of submitting only that corrected section in response to the Notice. Therefore, this submission is believed to place the brief on appeal in compliance with all requirements outlined in 37 C.F.R. § 41.37(c).

**I. Summary of the Claimed Subject Matter**

Although reference numerals and specification citations are inserted below in accordance with C.F.R. 41.37(c)(1)(v), these references numerals and citations are merely examples of where support may be found in the specification for the terms used in this section of the brief. There is no intention to in any way suggest that the terms of the claims are limited to the examples in the specification. Although, as demonstrated by the reference numerals and citations below, the claims are fully supported by the specification as required by law, it is improper under the law to read limitations from the specification into the claims. Pointing out specification support for the claim terminology as is done here to comply with rule 41.37(c)(1)(v) does not in any way limit the scope of the claims to those examples from which they find support. Nor does this exercise provide a mechanism for circumventing the law precluding reading limitations into the claims from the specification. In short, the reference numerals and specification citations are not to be construed as claim limitations or in any way used to limit the scope of the claims.

Independent claim 13 is directed to a system. The television audience measurement system (see, e.g., reference number 60 in FIG. 2, reference number 100 in FIG. 3, reference number 200 in FIG. 4, reference number 300 in FIG. 5, reference number 400 in FIG. 6) for digital television (see e.g., reference number 66 in FIG. 2, reference number 110 in FIG. 3, reference number 224 in FIG. 4, reference number 324 in FIG. 5, reference number 410 in FIG. 6) is disposed in a statistically selected location (see, e.g., reference number 62 in FIG.

2, reference number 102 in FIG. 3, reference number 202 in FIG. 4, reference number 302 in FIG. 5, reference number 402 in FIG. 6).<sup>1</sup> The system includes a software agent (see, e.g., reference numbers 112, 118, and 122 in FIG. 3 and reference number 500 in FIG. 7) and a communication apparatus (see, e.g., reference numbers 114, 116, 120, 124, and 170 in FIG. 3).<sup>2</sup> The software agent is adapted to read a program identification (PID) header from a data packet containing a portion of a tuned digital television program to identify the television program tuned by the digital television equipment.<sup>3</sup> The software agent is stored in memory associated with the digital television equipment, and the PID header is broadcast with the data packet to enable the digital equipment to tune to a selected one of a plurality of minor channels broadcast in a major channel.<sup>4</sup> The software agent stores at least a portion of the PID header in association with a timestamp.<sup>5</sup> The communication apparatus is adapted to

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<sup>1</sup> See, e.g., examples provided in the present application in FIGS. 2-6 and the paragraphs found at page 19, line 12 – page 20, line 15; page 25, lines 10-18; page 31, line 19 – page 32, line 9; page 33, line 19 – page 34, line 3; page 37, lines 3-16; page 39, lines 4-11; and page 43, lines 8-20.

<sup>2</sup> See, e.g., examples provided in the present application in FIGS. 2-6 and the paragraphs found at page 26, line 9 – page 28, line 16; page 29, line 1 – page 30, line 14; and page 46, line 17 – page 53, line 21.

<sup>3</sup> See, e.g., examples provided in the present application in FIGS. 2, 4, 5, and 7 and the paragraphs found at Abstract; page 10, lines 10-21; page 19, line 12 – page 22, line 12; page 23, line 3 – page 24, line 11; page 31, lines 1-18; page 32, line 17; page 35, line 12 – page 36, line 4; page 37, line 17 – page 38, line 14; page 46, line 17 – page 47, line 8; and page 47, line 19 – page 48, line 11.

<sup>4</sup> See, e.g., examples provided in the present application in FIG. 3 and the paragraphs found at page 4, line 3 – page 5, line 20; page 10, lines 10-21; and page 25, line 19 – page 26, line 8.

<sup>5</sup> See, e.g., examples provided in the present application in FIGS. 3 and the paragraphs found at page 2, lines 8-19; page 13, line 7 – page 14, line 2; and page 26, line 9 – page 28, line 16.

transmit at least one of the at least the portion of the PID header and media identification information obtained via the PID header to a remotely located central office.<sup>6</sup>

Independent claim 61 is directed to a tangible computer-readable storage medium including a set of instructions. The set of instructions, when executed, provide a software agent (see, e.g., reference numbers 112, 118, and 122 in FIG. 3 and reference number 500 in FIG. 7) stored in memory associated with digital television equipment.<sup>7</sup> The software agent is arranged to acquire television audience measurement data relative to the digital television equipment.<sup>8</sup> The software agent includes first instructions to store and timestamp at least a portion of a television program identification (PID) header from a data packet containing a portion of a tuned television program to identify the television program selected for viewing on the digital television equipment.<sup>9</sup> The software agent includes second instructions to log a co-transmitted datum transmitted in a same major channel as the television program selected for viewing on the digital television equipment, the co-transmitted datum being related to the

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<sup>6</sup> See, e.g., examples provided in the present application in FIGS. 3,4, and 6 and the paragraphs found at page 10, lines 10-21; page 29, line 1 – page 30, line 4; page 35, line 12 – page 36, line 4; page 42, lines 5-13; and page 45, line 18 – page 46, line 16.

<sup>7</sup> See, e.g., examples provided in the present application in FIGS. 3 and 7 and the paragraphs found at page 10, lines 10-21 and page 25, line 19 – page 26, line 8.

<sup>8</sup> See, e.g., examples provided in the present application in FIGS. 3 and 7 and the paragraphs found at page 4, line 3 – page 5, line 20; page 10, lines 10-21; page 13, line 7 – page 14, line 2; page 25, line 19 – page 28, line 16; and page 46, line 17 – page 52, line 20.

<sup>9</sup> See, e.g., examples provided in the present application in FIG. 3 and the paragraphs found at page 2, lines 8-19; page 13, line 7 – page 14, line 2; and page 26, line 9 – page 28, line 16.

tuned television program.<sup>10</sup> The software agent includes third instructions to log an Internet identification datum associated with an Internet task of the digital television equipment.<sup>11</sup>

Independent claim 62 is directed to an apparatus. The apparatus is provided for identifying a viewer selected television program from among a plurality of time overlapped television programs broadcast in a viewer selected broadcast channel and received by digital television program reception equipment.<sup>12</sup> The digital television program reception equipment has a data port to export tuned data.<sup>13</sup> The apparatus includes a reader connected to the data port to read program identifying data tuned by the digital television program reception equipment from among data exported from the digital television program reception equipment via the data port for use by a media device different from the digital television program reception equipment.<sup>14</sup> The data port operates in accordance with the IEEE 1394 protocol and the program identifying data read by the reader are identifier tags exported with

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<sup>10</sup> See, e.g., examples provided in the present application in FIG. 7 and the paragraphs found at page 13, line 7 – page 14, line 17 and page 49, line 3 – page 50, line 11.

<sup>11</sup> See, e.g., examples provided in the present application in FIGS. 3 and 7 and the paragraphs found at page 7, lines 11-22; page 14, lines 3-17; page 30, lines 5-14; page 49, line 20 – page 51, line 8; and page 54, lines 4-13.

<sup>12</sup> See, e.g., examples provided in the present application in FIGS. 3 and 7 and the paragraphs found at page 4, line 3 – page 5, line 20; page 10, lines 10-21; page 13, line 7 page 14, line 2; page 25, line 19 – page 28, line 16; and page 46, line 17 – page 52, line 20.

<sup>13</sup> See, e.g., examples provided in the present application in FIGS. 3, 4, 6 and the paragraphs found at page 15, lines 19-22; page 26, line 9 – page 28, line 16; page 29, line 1 – page 30, line 4; page 42, line 14 – page 43, line 7; and page 43, line 21 – page 45, line 17.

<sup>14</sup> See, e.g., examples provided in the present application in FIGS. 3 and 6 and the paragraphs found at page 25, line 19 – page 28, line 16; page 29, line 1 – page 30, line 4; page 42, line 14 – page 43, line 7; page 43, line 15 – page 46, line 16.

the data in accordance with the IEEE 1394 protocol.<sup>15</sup> The apparatus also includes a memory to store the program identifying data.<sup>16</sup>

Independent claim 79 is directed to a method. The method is implemented by a software agent stored in memory associated with digital television equipment.<sup>17</sup> The software agent is arranged to acquire television audience measurement data relative to the digital television equipment.<sup>18</sup> The method includes storing and time stamping at least a portion of a television program identification (PID) header from a data packet containing a portion of a tuned television program to identify the television program selected for viewing on the digital television equipment.<sup>19</sup> The method includes logging a co-transmitted datum transmitted in a same major channel as the television program selected for viewing on the digital television equipment, the co-transmitted datum being related to the tuned television

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<sup>15</sup> See, e.g., examples provided in the present application in FIGS. 3 and 6 and the paragraphs found at page 29, line 1 – page 30, line 4 and page 45, line 18 – page 46, line 16.

<sup>16</sup> See, e.g., examples provided in the present application in FIGS. 3 and 7 and the paragraphs found at page 2, lines 8-19; page 25, line 19 – page 26, line 8; and page 48, line 12 – page 49, line 2.

<sup>17</sup> See, e.g., examples provided in the present application in FIG. 3 and the paragraphs found at page 10, lines 10-21; and page 25, line 19 – page 26, line 8.

<sup>18</sup> See, e.g., examples provided in the present application in FIGS. 2-5 and 7 and the paragraphs found at Abstract; page 10, lines 10-21; page 19, line 12 – page 22, line 12; page 23, line 3 – page 24, line 11; page 31, lines 1-18; page 32, line 17 – page 33, line 18; page 35, line 12 – page 36, line 4; page 37, line 17 – page 38, line 14; page 46, line 17 - page 47, line 8; and page 47, line 19 – page 48, line 11.

<sup>19</sup> See, e.g., examples provided in the present application in FIG. 3 and the paragraphs found at page 2, lines 8-19; page 4, line 3 – page 5, line 20; page 10, lines 10-21; page 13, line 7 – page 14, line 2; and page 25, line 19 – 28, line 16.

program.<sup>20</sup> The method includes logging an Internet identification datum associated with an Internet task of the digital television equipment.<sup>21</sup>

Independent claim 80 is directed to a method. The method is provided for identifying a viewer selected television program from among a plurality of time overlapped television programs broadcast in a viewer selected broadcast channel and received by digital television program reception equipment, wherein the digital television program reception equipment has a data port to export tuned data to a second media device.<sup>22</sup> The method includes intercepting program identifying data tuned by the digital television program reception equipment from among data exported from the digital television program reception equipment via the data port.<sup>23</sup> The data port operates in accordance with the IEEE 1394 protocol, and the program identifying data includes identifier tags exported with the data in

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<sup>20</sup> See, e.g., examples provided in the present application in FIG. 7 and the paragraphs found at page 13, line 7 – page 14, line 17; and page 49, line 3 – page 50, line 11.

<sup>21</sup> See, e.g., examples provided in the present application in FIGS. 3 and 7 and the paragraphs found at page 7, lines 11-22; page 14, lines 3-17; page 30, lines 5-14; page 49, line 20 – page 51, line 8; and page 54, lines 4-13.

<sup>22</sup> See, e.g., examples provided in the present application in FIGS. 3 and 5-7 and the paragraphs found at page 4, line 3 – page 5, line 20; page 10, lines 10-21; page 13, line 7 – page 14, line 2; page 15, line 19-22; page 25, line 19 – 28, line 16; page 29, line 1 – page 30, line 4; page 42, line 14 – page 43, line 7; and page 43, line 21 – page 52, line 20.

<sup>23</sup> See, e.g., examples provided in the present application in FIGS. 3, 5, and 6 and the paragraphs found at page 25, line 19 – page 28, line 16; page 29, line 1 – page 30, line 4; page 42, line 14 – page 43, line 7; and page 43, line 5 – page 46, line 16.

accordance with the IEEE 1394 protocol.<sup>24</sup> The program identifying data is exported to the second media device and stored.<sup>25</sup>

The summary above is to be combined with the Brief of Appeal submitted on October 18, 2010, and considered by the Board of Appeals. In view of the foregoing remarks, it is respectfully submitted that all of the rejections made in the final Office action are fatally flawed and must be overturned.

Respectfully submitted,

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November 17, 2010

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<sup>24</sup> See, e.g., examples provided in the present application in FIGS. 3 and 6 and the paragraphs found at page 29, line 1 – page 30, line 4 and page 45, line 18 – page 46, line 16.

<sup>25</sup> See, e.g., examples provided in the present application in FIGS. 3 and 7 and the paragraphs found at page 2, lines 8-19; page 25, line 19 – page 26, line 8; and page 48, line 12 – page 49, line 2.